SINGLE BENCH

(4)

CF 100 2

IN THE HIGH COURT OF JUDICATURE CHHATTISGARH

AT BILASPUR

WRIT PETITION (S) No. 6959 /2006

PETITIONER

Ashwani Kumar Patel S/o Late Shri Chatur Singh Patel Aged about 35 years, Asst. Teacher Govt. Higher Secondary School, Kanta Hardi, Block - Raigarh, Distt. Raigarh (C.G.)

P.R. No. 20546
Presented by Shri D.P. Raipal
dated 5/12/06

VERSUS

RESPONDENTS

1. State of Chhattisgarh Through: Secretary Department of Education Mantralaya, D.K.S. Bhawan, Raipur (C.G.)

2. District Education Officer, Raigarh, District Raigarh (C.G.)

RECEIVED-COPY
5/12/06
CLERK to A. G. BILASPUR

3. Block Education Officer,
Block-Raigarh
District – Raigarh
(C.G.)

4. Principal, Govt. Higher Secondary School, Kanta Hardi, Block Raigarh, Distt. Raigarh (C.G.)

OATH COMMISSIONER
APARNA MALVIYA
CG 07205
03/12/06
Bilaspur Chhattisgarh

WRIT PETITION U/A 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRITS IN THE NATURE OF MANDAMUS AND CERTIORARI AND FOR OTHER SUITABLE WRITS AND DIRECTIONS

The petitioner named above most respectfully begs to submit as under:-

(2p)

HIGH COURT OF CHHATTISGARH AT BILASPUR

SINGLE BENCH : HON'BLE MR. SATISH K. AGNIHOTRI, J.

WRIT PETITION (S.) NO.6952 OF 2006

Petitioner : Smt. Puspa A. Wany

versus

Respondents : The State Government of Chhattisgarh and another

WRIT PETITION (S.) NO.6959 OF 2006

Petitioner : Ashwani Kumar Patel

Versus

Respondents : State of Chhattisgarh and others

WRIT PETITION (S.) NO.6964 OF 2006

Petitioner : Om Prakash Sao

Versus

Respondents : State of Chhattisgarh and others

Present : Mr. Somkant Verma and Mr. Sanjay Patel, counsel for the petitioner(s).

Mrs. Anju Ahuja, Deputy Government Advocate and Ms. Sunita Jain, Panel Lawyer for the State/respondents.

ORDER
(Passed on 14th Day of December, 2006)

The petitioners are working as Upper Division Teacher/Assistant Teacher in Government Schools. In the course of their service as Upper Division Teacher/Assistant Teacher, the petitioners have obtained B.Ed./B.T.I. Certificates at their own expenses before 1-3-1999.

2. The present batch of writ petitions are being disposed of by this common order as the facts and question of law involved in these petitions are common.

3. According to learned counsel for the petitioners, the petitioners are entitled to two advance increments in view of the decision of this Court in the case of ***Yashwant Kumar Bharadwej*** **vs.** ***Municipal Corporation, Durg and another***[1], wherein it has been held that the Teachers, having obtained B.Ed., M.Ed., B.T.I. Certificates, at their own expenses, are covered by the circular dated 24-12-1998 issued by the State Government of Madhya Pradesh.

4. Further, in the matter of ***Smt. Manorama Shrivastava*** **vs.** ***State of M.P. and others***[2], the Madhya Pradesh Administrative Tribunal, Gwalior Bench, while considering the circular dated 1-3-1999, wherein it is provided that the Assistant Teachers, who have acquired B.Ed. Degree at their own cost between 23-10-1964 and 7-5-1973 shall be entitled to two advance increments, relied on decision in the case of *Rakesh Kumar Shrivastava vs. State of M.P. and others* passed in Original Application No.1632 of 1999, decided on 12-10-1999, wherein

it is observed that the circular dated 1-3-1999 cannot be made applicable retrospectively. Thus, a Teacher, may be Assistant Teacher, who has obtained B.Ed. Degree before 1-3-1999 is entitled to two advance increments.

5. It is pointed out by learned counsel appearing for the petitioners that the then State of Madhya Pradesh had filed a Special Leave Petition against the orders passed by the Tribunal and the Hon'ble Supreme Court dismissed Special Leave Petition No.1999 of 2000 filed against the order of the Tribunal. Therefore, the direction to the effect that the circular dated 1-3-1999 cannot be made applicable retrospectively, passed by the Tribunal, becomes final and the same shall be applicable to all the Assistant Teachers, who have obtained B.Ed./B.T.I. Certificates before 1-3-1999. It is further substantiated by a circular dated 17-10-2003 issued by the present State of Madhya Pradesh, wherein the circular clearly states about the decision of the Hon'ble Supreme Court.

6. Learned counsel appearing for the petitioners further submit that the facts and question of law involved in the present cases are squarely covered by the decision of this Court in the case of *Yashwant Kumar Bharadwaj* (Supra), to which learned counsel appearing for the State/respondents fairly concede and agree with the averments made by learned counsel appearing for the petitioners.

7. Accordingly, the writ petitions are allowed in terms of the decision of this Court in the matter of *Yashwant Kumar Bharadwaj* (Supra), subject to verification of the fact as to whether the petitioners

have acquired B.Ed./B.T.I. Certificates at their own expenses as per the circulars dated 24-12-1998 and 1-3-1999 and further whether they have been paid two advance increments or not. No order as to costs.

8. A copy of this order be placed on the record of the connected writ petitions.

Sd/-
Satish K. Agnihotri
Judge

---

1 2006 (II) MPJR-CG 96
2 2000 (1) M.P.L.S.R. 136

Gopal